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ANNEXATION REPORT

JAN 24 1977



BANNER ELK
NORTH CAROLINA

ANNEXATION REPORT

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PREPARED BY:

The Town of Banner Elk, North Carolina
Charles Van Cannon, Sr., Mayor

Town Council
Vance Latta
Le Roy Riddle
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PREPARED BY:

Banner Elk Planning Board
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ANNEXATION REPORT

BANNER ELK, NORTH CAROLINA

TECHNICAL ASSISTANCE
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Thelma Hipps, Stenographer

MARCH, 1976



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CHAPTER I

INTRODUCTION AND PURPOSE

Annexation is a legal and administrative process delegated to municipalities by the North Carolina General Assembly for the purpose of extending the town limits of an incorporated municipality. The results of any annexation should be mutually beneficial to the incorporated municipality and the area to be incorporated.

The purpose of this report is to identify areas contiguous to the municipal limits of the Town of Banner Elk that meet the statutory requirements for annexation as required by G.S. 160A-35 and to set forth a plan for extending municipal services into the areas proposed for annexation. The North Carolina General Statutes require that a written services plan accompany the report for areas the municipality plans to annex by ordinance. No services plan is required for areas submitting a petition for annexation or for satellite areas. However, in the cost-revenue chapter, an analysis of the revenues and cost estimates for each area is included for purposes of evaluation.

CHAPTER II

ROLE OF BANNER ELK PLANNING BOARD

The 1959 General Assembly declared as a matter of State policy "that sound urban development is essential to the continued economic development of North Carolina." Municipal officials and local planning boards are charged with the responsibility of executing this policy. Annexation is an integral part of the overall planning process, a tool in guiding and insuring orderly growth and development and should be based on careful study and consideration. The Planning Board should make its recommendations to the Town Council after considering the following:

- Do all study areas meet statutory standards for annexation?
- Can Banner Elk provide the same level of services to the newly annexed areas as it does in the incorporated town limits?
- What is the cost of providing municipal services relative to the revenues to be derived from the annexations?
- Would the annexations be mutually beneficial to the Town and the areas proposed for annexation?
- Does the Town have a definite annexation policy within the framework of the growth plan? If not, should such a plan be formulated before additional annexations occur?

CHAPTER III

METHODS OF ANNEXATION

Four legal methods of annexation are available to the Town of Banner Elk:

- A. Annexation by Petition. An area contiguous to the existing municipal boundary can be annexed by the municipality if a petition is signed by all owners of real property in the area. The governing body determines the sufficiency of the petition and the statutory requirements of the area to be annexed. After a public hearing is held, the governing body may annex the area by ordinance. This method is best suited for annexation of smaller areas, new subdivisions, and tracts of land with few property owners.
- B. Local Act of the General Assembly. A resolution is adopted by the governing body requesting its local representative(s) to the General Assembly to introduce the appropriate legislation. If approved by the General Assembly, certain conditions may be imposed on the Town before the legislation can become effective.
- C. Annexation of Areas Meeting Statutory Requirements. Cities and towns with less than 5,000 population, according to the latest decennial census, may annex by ordinance areas meeting statutory standards of contiguity, population density, and intensity of development. These standards are subject to the following requirements:
 - 1) The area must be contiguous to the corporate limits.
 - 2) At least one-eighth of the total boundary of the area must coincide with the municipal boundary.
 - 3) No part of the area may be within another incorporated municipality.

- 4) The area must be developed for urban purposes. For municipalities under 5,000 population, an area developed for urban purposes is defined as any area which is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent of the total acreage, not counting acreage used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts five acres or less in size; and
- 5) New municipal boundaries shall follow natural topographic features wherever practical, and if a street is used as a boundary, it should include developed land on both sides of the street.

Under the last method, the municipality is required to make plans for the extension of services to the area proposed to be annexed prior to the public hearing. The plans must include:

- 1) Maps showing present and proposed boundaries of the municipality and the proposed extensions of water mains and sewer outfalls to serve the annexed areas.
- 2) A statement showing that the areas to be annexed meet the requirements of the General Statutes.
- 3) A statement setting forth the plans for extending other municipal services into the area and the method the municipality will use in financing these areas.

D. Annexation of Non-Contiguous, "Satellite" Areas. The governing body of a municipality may annex by ordinance certain areas whose boundaries do not at any point touch its primary corporate limits. A petition containing the names, addresses, and signatures of all owners of real property within the proposed satellite area must be presented to the governing body. Owners of tax-exempt real property, railroad companies, public utilities, and electric and telephone membership corporations located within the proposed satellite corporate limits need not sign the petition. The petition must describe the proposed area by metes and bounds and have attached a map showing the proposed satellite area in relation to the primary corporate limits.

The satellite area must meet the following standards:

- 1) The nearest point on the satellite area must not be more than three miles from the primary limits of the annexing municipality.
- 2) No point on the satellite area may be closer to the primary limits of another municipality than to the annexing city.
- 3) The area must be so located that services provided the satellite area can be equivalent to the services provided within the primary limits.
- 4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivisions must be included.
- 5) The area within the proposed satellite limits plus the area within all other satellite corporate limits may not exceed ten percent (10%) of the total land area within the primary corporate limits of the annexing city.

The governing body shall determine the sufficiency of the petition and shall hold a public hearing on the annexation. Upon approval of the petition, the governing body may adopt an ordinance annexing the area described in the petition.

CHAPTER IV

METHODOLOGY

Delineation of Study Areas

The areas proposed for annexation were selected because they are developed or are developing adjacent to the corporate limits of Banner Elk. Areas selected were measured and evaluated for statutory compliance. (Map 1). Since tax maps are not available for Banner Elk, lot lines were drawn from recorded deeds and ASCS aerial photographs. Boundary lines for study areas were drawn using property lines and calculated distances from the edge of existing roads or streets.

Acreage Estimates

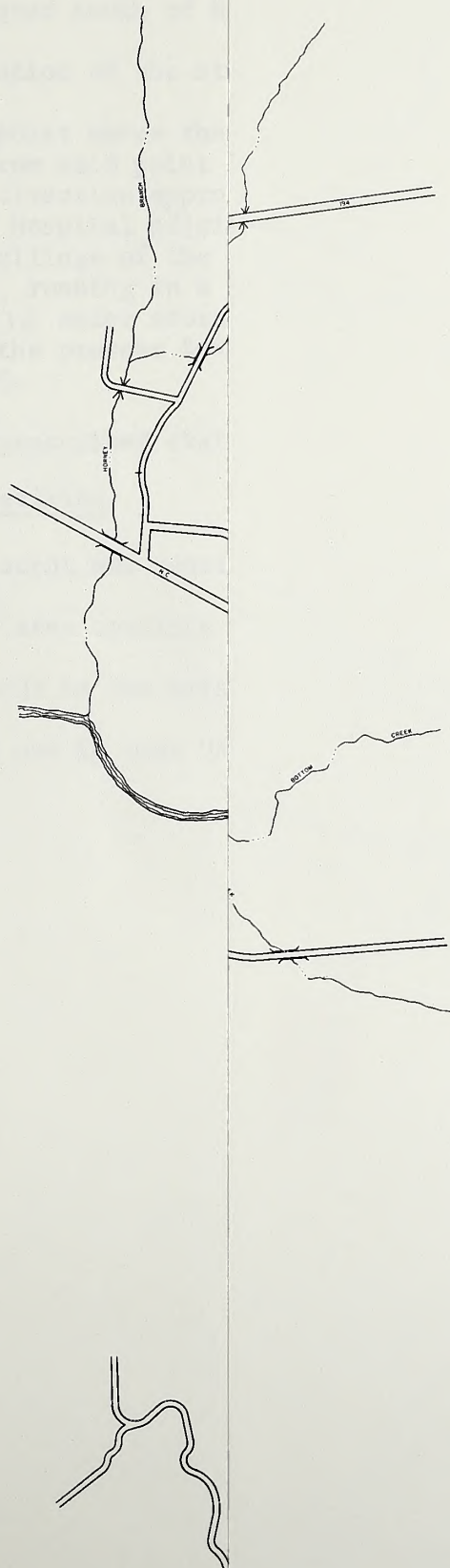
The acreage of each study area was computed by use of a compensating planimeter. Existing land uses were surveyed and mapped during a survey conducted in December, 1975.

Population Estimates

The population of each study area was estimated by multiplying the total number of dwelling units by the population per household (3.26) in Avery County as reflected in the 1970 Census of Population.

ANNEXATION AREAS

MAP 1



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Acreage Estimates

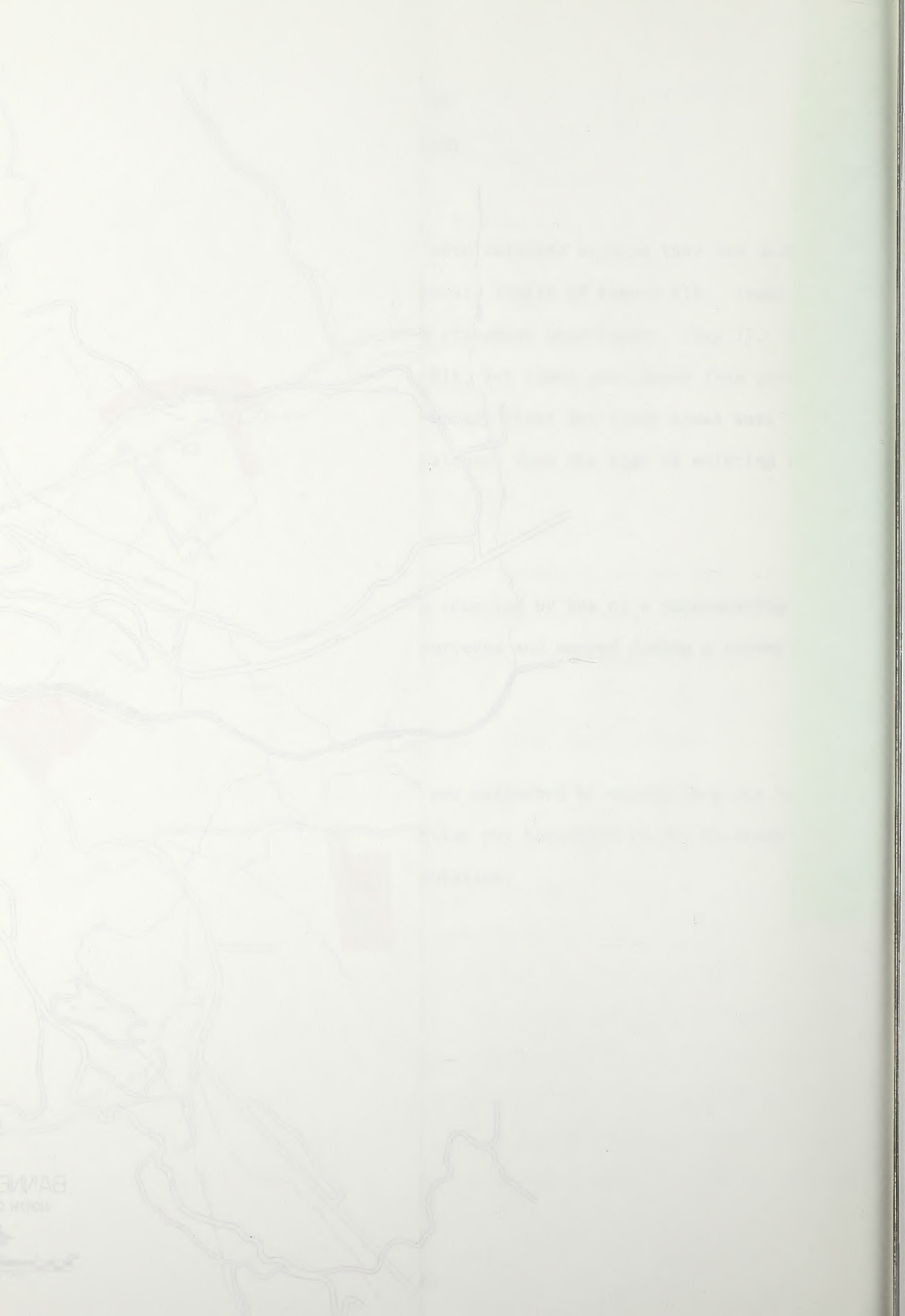
The acreage of each study area was computed by use of a compensating planimeter. Existing land uses were surveyed and mapped during a survey conducted in December, 1975.

Population Estimates

The population of each study area was estimated by multiplying the total number of dwelling units by the population per household (3.26) in Avery County as reflected in the 1970 Census of Population.

ANNEXATION AREAS
MAP 1





CHAPTER V
STUDY AREA "A"

Area "A" is located south of Banner Elk on N.C. Highway 184. Following is the specific location of the study area:

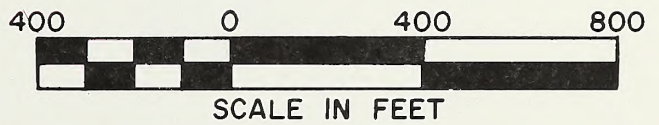
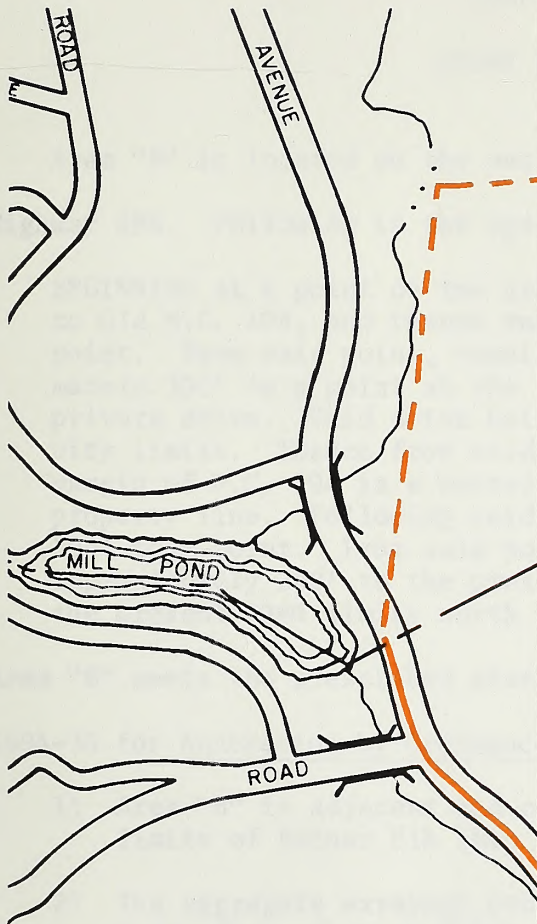
BEGINNING at a point where the present town limits and N.C. 184 intersect. Thence from said point following the center line of N.C. 184 in a southerly direction approximately 1129' to the property line of Cannon Memorial Hospital adjoining N.C. 184. Thence following the next four (4) callings of the hospital property lines to a point. From said point, running in a northwesterly direction approximately 775' to a potable water storage tank on the present town limits. Then following the present town limits in a southwesterly direction to the BEGINNING.

Area "A" meets the prescribed statutory requirements as outlined by G.S. 160A-31 for Annexation by Petition.

Area "A" is adjacent and contiguous to the existing corporate limits of Banner Elk. The area consists of 26.66 acres and 17.77% of its external boundary is contiguous to the existing corporate limits of Banner Elk. Map 2 shows existing land use in Area "A".

STUDY AREA "A"

MAP 2



PROPOSED ANNEXATION BOUNDARY
HOSPITAL PROPERTY LINE
PUBLIC/SEMI-PUBLIC

CHAPTER V

ANNEXATION AREA "A"

Area "A" is located within the present limits of Banner Elk on U.S. Highway 184. Following is the specific location of the area:

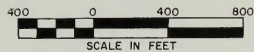
Beginning at a point where the present town limits and U.S. 184 intersect, thence south and east following the center line of U.S. 184 in a southeasterly direction approximately 1130' to the property line of the Banner Elk Hospital, thence following the west line of the hospital property line to a point, thence south, running in a southeasterly direction approximately 175' to the property line of the present town limits, thence following the present town limits in a southeasterly direction to the beginning.

Area "A" meets the present statutory requirements as outlined by G.S. 160-202 for Annexation by Petition.

Area "A" is adjacent and contiguous to the existing corporate limits of Banner Elk. The area consists of 18.00 acres and 17.77% of its external boundary is contiguous to the existing corporate limits of Banner Elk. Map shows existing land use in Area "A".

STUDY AREA "A"

MAP 2



- PROPOSED ANNEXATION BOUNDARY
- - - - - HOSPITAL PROPERTY LINE
- PUBLIC/SEMI-PUBLIC

CHAPTER VI
STUDY AREA "B"

Area "B" is located on the eastern edge of Banner Elk on old N.C. Highway 194. Following is the specific location of the study area:

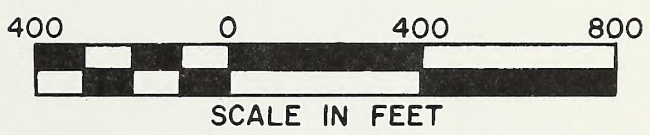
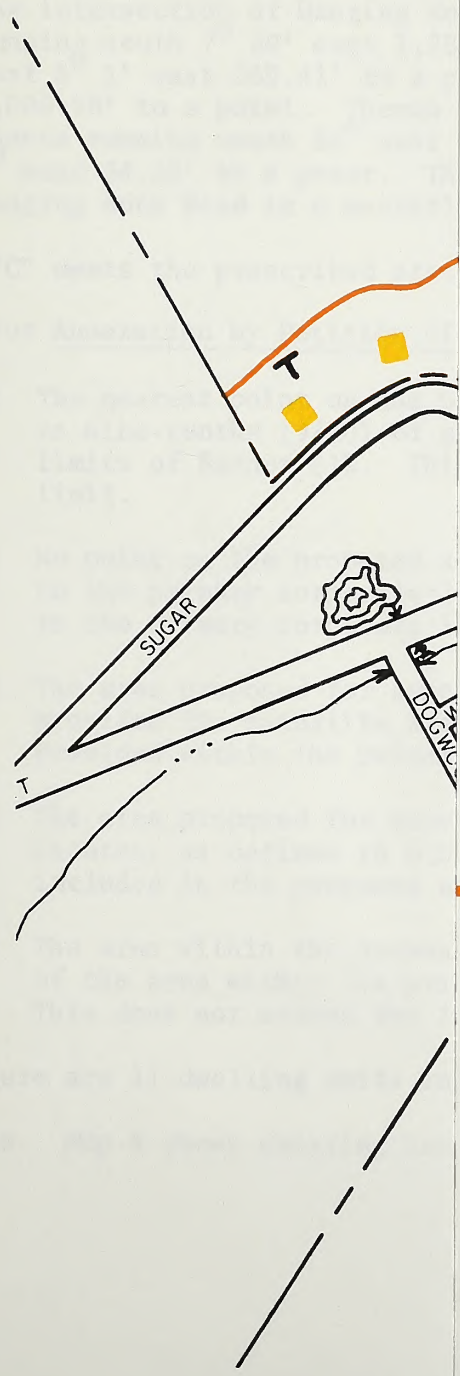
BEGINNING at a point on the present town limits 200' parallel to Old N.C. 194, and thence running approximately 1,920' to a point. From said point, running in a southerly direction approximately 300' to a point at the intersection of N.C. 194 and a private drive. Said drive being approximately 525' east of present city limits. Thence from said point running along the southern margin of N.C. 194 in a westerly direction approximately 300' to a property line. Following said property line south approximately 700' to a point. From said point, running in a westerly direction approximately 200' to the present town limits. Thence following the present town limits north to the BEGINNING.

Area "B" meets the prescribed statutory requirements as outlined by G.S. 160A-36 for Annexation by Ordinance of areas meeting Statutory Standards.

- 1) Area "B" is adjacent and contiguous to the existing corporate limits of Banner Elk (Map 1).
- 2) The aggregate external boundary line of the study area is 5,880 feet of which 2,520 feet or 43% coincides with the municipal limits of Banner Elk. Therefore, at least 1/8 or 12% of the external boundary coincides with the existing municipal boundary.
- 3) No part of Area "B" is within the boundary of another incorporated municipality.
- 4) Area "B" is developed for urban purposes in that 87.5% of the total number of lots and tracts in the area are used for residential, commercial, industrial, institutional, or governmental purposes and 100% of the total of residential and undeveloped acreage consists of lots and tracts five acres or less in size, all of which is demonstrated as follows:
 - a) The area contains 14.83 acres, all of which is used for residential purposes.
 - b) 14.83 acres consist of residential and undeveloped acreage five (5) acres or less in size.

There are 11 dwelling units, including 4 mobile homes, in the area housing an estimated population of 36 persons. Map 3 shows existing land use in Area "B".

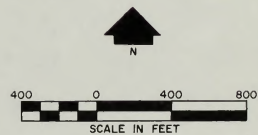
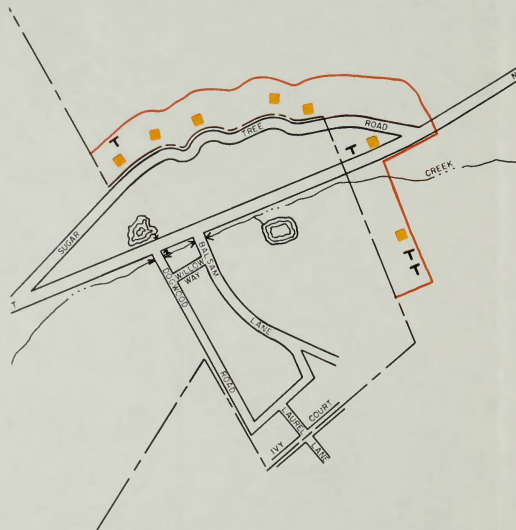
STUDY AREA "B"
MAP 3



PROPOSED ANNEXATION BOUNDARY
RESIDENTIAL
TRAILER

STUDY AREA "B"

MAP 3



PROPOSED ANNEXATION BOUNDARY
RESIDENTIAL
TRAILER

CHAPTER VII
STUDY AREA "C"

Area "C" is located southeast of Banner Elk on Hanging Rock Road.

Following is the specific location of the study area.

BEGINNING at a point on Hanging Rock Road approximately 300' from the intersection of Hanging Rock Road and Horse Bottom Creek. Thence running south $7^{\circ} 30'$ east 1,282.48' to a point. Thence running south-east $6^{\circ} 1'$ east 569.41' to a point. Thence running north $3^{\circ} 46'$ east 1,006.18' to a point. Thence running north 87° west 187.45' to a point. Thence running south 83° west 350.44' to a point. Thence running north 7° west 34.28' to a point. Thence following the southern margin of Hanging Rock Road in a westerly direction to the point of BEGINNING.

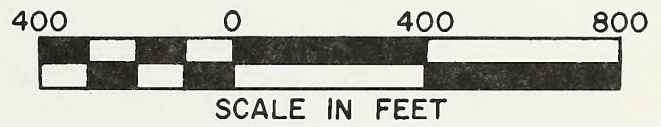
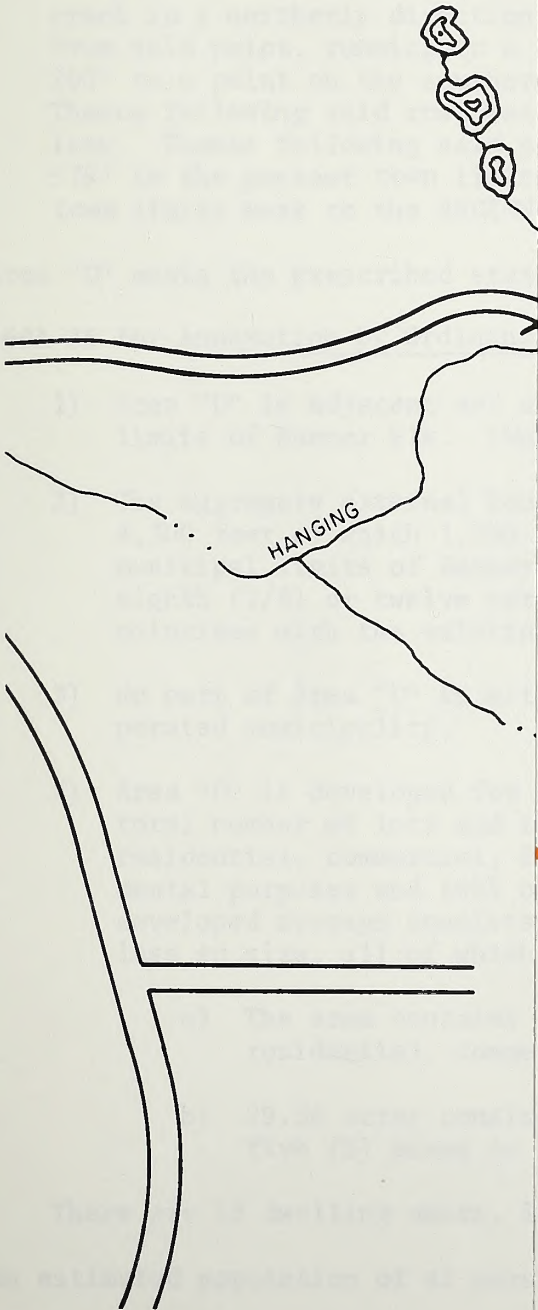
Area "C" meets the prescribed statutory requirements as outlined by G.S. 160A-58.1 for Annexation by Petition of Non-Contiguous Areas.

- 1) The nearest point on the proposed satellite corporate limits is nine-tenths (9/10) of a mile from the primary corporate limits of Banner Elk. This does not exceed the three (3) mile limit.
- 2) No point on the proposed satellite corporate limits is closer to the primary corporate limits of another municipality than to the primary corporate limits of Banner Elk.
- 3) The area proposed for annexation is so situated that services provided the satellite area can be equivalent to the services provided within the primary corporate limits of Banner Elk.
- 4) The area proposed for annexation is a subdivision (Hanging Rock Estates) as defined in G.S. 160A-376; all of the subdivision is included in the proposed area.
- 5) The area within the proposed satellite corporate limits is 4.2% of the area within the primary corporate limits of Banner Elk. This does not exceed the 10% limit.

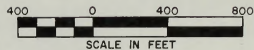
There are 11 dwelling units in the subdivision, housing an estimated 36 persons. Map 4 shows existing land use in Area "C".

STUDY AREA "C"

MAP 4



**PROPOSED ANNEXATION BOUNDARY
RESIDENTIAL**

**PROPOSED ANNEXATION BOUNDARY
RESIDENTIAL**

CHAPTER VIII

STUDY AREA "D"

Area "D" is located north of Banner Elk on Beech Mountain Road. Following is the specific location of the study area:

BEGINNING at a point at the intersection of Whitehead Creek and the present town limits. Thence from said point following said creek in a northerly direction approximately 1,340' to a point. From said point, running in a southerly direction approximately 200' to a point on the southern margin of Beech Mountain Road. Thence following said road east approximately 560' to a property line. Thence following said property line south approximately 575' to the present town limits. Thence following the present town limits west to the BEGINNING.

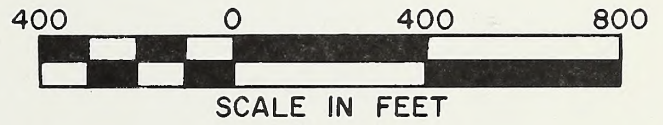
Area "D" meets the prescribed statutory requirements as outlined by G.S. 160A-36 for Annexation by Ordinance of Areas Meeting Statutory Standards.

- 1) Area "D" is adjacent and contiguous to the existing corporate limits of Banner Elk. (Map 1)
- 2) The aggregate external boundary line of the study area is 4,300 feet of which 1,500 feet or 35% coincides with the municipal limits of Banner Elk. Therefore, at least one-eighth ($1/8$) or twelve percent (12%) of the external boundary coincides with the existing municipal boundary.
- 3) No part of Area "D" is within the boundary of another incorporated municipality.
- 4) Area "D" is developed for urban purposes in that 64.7% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional, or governmental purposes and 100% of the total of residential and undeveloped acreage consists of lots and tracts of five acres or less in size, all of which is demonstrated as follows:
 - a) The area contains 29.36 acres, all of which is used for residential, commercial, or institutional purposes.
 - b) 29.36 acres consist of residential and undeveloped acreage five (5) acres or less in size.

There are 13 dwelling units, including 4 mobile homes, in the area housing an estimated population of 42 persons. Map 5 shows existing land use in Area "D".

STUDY AREA "D"

MAP 5



CREEK

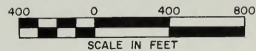
BEECH



PROPOSED ANNEXATION BOUNDARY
RESIDENTIAL
COMMERCIAL
PUBLIC/SEMI-PUBLIC
TRAILER

STUDY AREA "D"

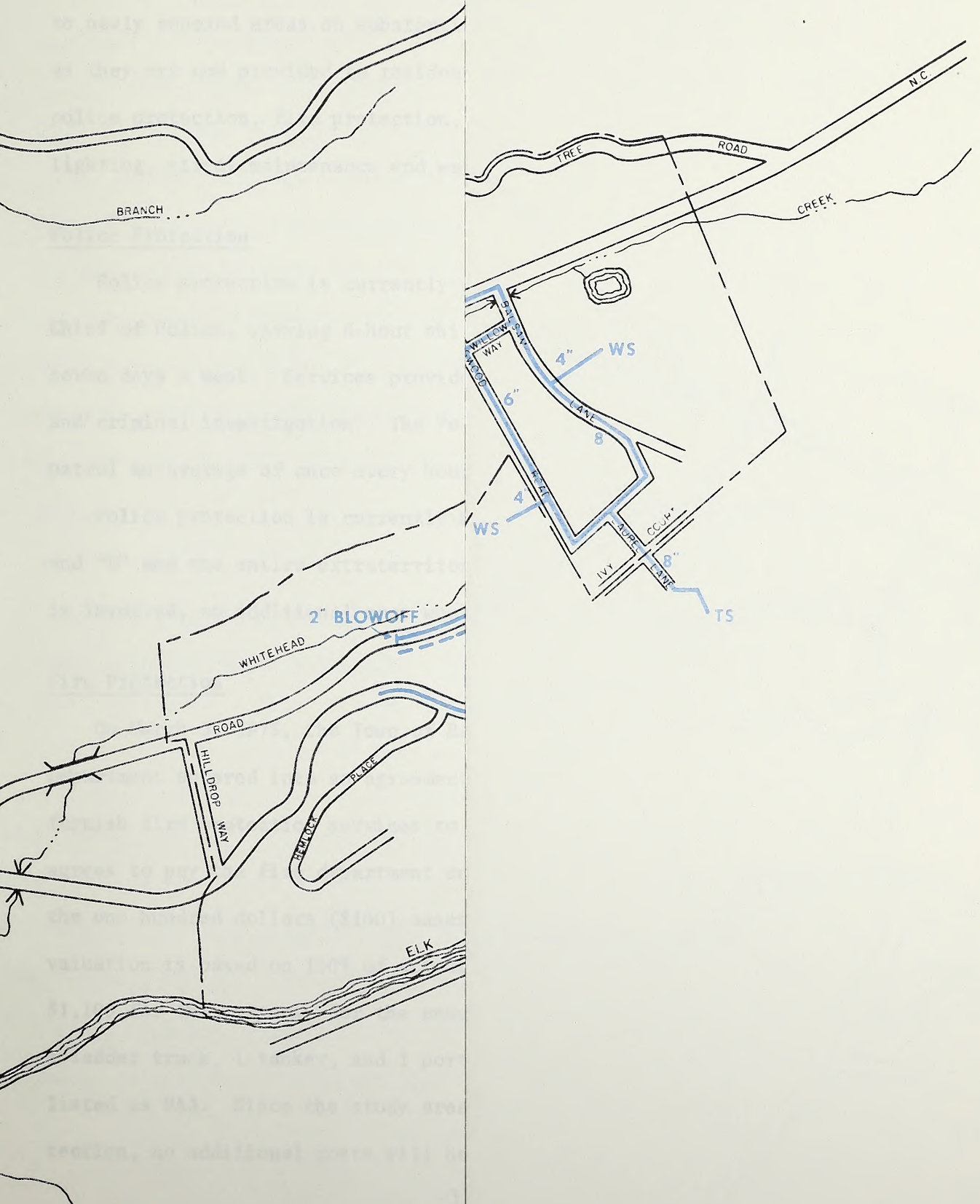
MAP 5



- PROPOSED ANNEXATION BOUNDARY
- RESIDENTIAL
- COMMERCIAL
- PUBLIC/SEMI-PUBLIC
- TRAILER

EXISTING WATER SERVICE LINES

MAP 6



EXISTING WATER SERVICE LINES MAP 6



CHAPTER IX

SERVICES AND FINANCING

It is the intent of the Town of Banner Elk to provide municipal services to newly annexed areas on substantially the same basis and in the same manner as they are now provided to residents of the Town. These services include: police protection, fire protection, garbage collection and disposal, street lighting, street maintenance and water service.

Police Protection

Police protection is currently provided by four officers, including the Chief of Police, serving 8-hour shifts. Twenty-four hour service is provided seven days a week. Services provided include traffic control and accident and criminal investigation. The Police Department has 3 patrol cars which patrol an average of once every hour.

Police protection is currently being provided Study Areas "A", "B", "C", and "D" and the entire extraterritorial zone. Since no additional territory is involved, no additional cost would be incurred by the Town for this service.

Fire Protection

On March 3, 1975, the Town of Banner Elk and the Banner Elk Volunteer Fire Department entered into an agreement whereby the fire department agrees to furnish fire protection services to the citizens of Banner Elk, and the Town agrees to pay the fire department an amount equivalent to five cents (\$.05) on the one hundred dollars (\$100) assessed valuation annually, assuming the assessed valuation is based on 100% of actual value. The Town has estimated and budgeted \$1,100 for this expense for the ensuing year. The department has 2 pumps and a ladder truck, 1 tanker, and 1 portable pump. The fire insurance rating is listed as 9AA. Since the study areas are currently being provided fire protection, no additional costs will be incurred by the Town as a result of the

annexations; however, additional fire hydrants would be needed in some areas. Fire hydrants would be provided at intervals of 1 every 500'.

Garbage Collection and Disposal

Garbage and trash collection is provided Town residents and persons residing in the extraterritorial zone on a monthly fee basis. Residents within the Town pay \$3.00 per month for garbage collection per household; persons outside the Town are charged \$4.50 monthly. The Town owns a 1973 2-ton Ford garbage truck with an 18 cubic yard Truxmore body, equipped with compactor facilities. Two full-time operators are employed by the Town. Garbage is picked up once a week and is disposed of at the County landfill, located southwest of Banner Elk on Highway 19E on the Mitchell County line. Areas "B", "C", and "D" are currently provided garbage collection. The Hospital owns and operates its own garbage truck and compactor; the disposal site is the County landfill also.

Street Lighting

Street lighting is provided by Mountain Electric Company with the Town responsible for maintenance of the lights. The approximate cost per light is \$12.00 annually.

Street Maintenance

Banner Elk finances street maintenance with Powell Bill Funds. These funds are derived from the State gasoline tax, and a portion of the tax is distributed to towns on the basis of population and street mileage. With the additional population and street mileage acquired with the annexations, the Town would be able to finance street maintenance with Powell Bill Funds.

Water System

In May 1970, a new municipal water system was completed for Banner Elk at a cost of \$194,000. The main water sources for the system are two wells on separate locations: one, southeast and the other, northeast of Town. Each well has one pump, which presently operates only four hours a day. This system results in a "back-up" pump for emergency use. A 100,000 gallon covered overhead concrete storage tank is capable of sustaining the Town for two days of average use. The 350' well produces water at a rate of 100 G.P.M.; the 410' well produces 120 G.P.M. The maximum daily capacity of the water system is 316,000 gallons per day. The peak load to date has been 273,000 gallons per day. This leaves 43,000 gallons per day available above the peak load.

Monthly water rates are \$3.00 for the first 2,000 gallons and \$1.00 per 1,000 gallons thereafter up to 25,000 gallons. Rates outside the Town are \$4.50 for the first 2,000 gallons and \$1.00 per 1,000 gallons thereafter up to 25,000 gallons. Rates inside and outside the Town are scheduled to increase by \$.50 July 1, 1976.

Presently, there are seven fire hydrants in the corporate limits with an additional ten hydrants already scheduled to be installed. When the system was constructed, a "t" joint for installing future fire hydrants was placed every 500' in the main line. A 4" line was "stubbed off" on Lees McRae campus in the event the Town ever assumes maintenance of the college system. An 8" line terminates at the airport but allows for further westward expansion of the service area.

Area "A", consisting of Cannon Memorial Hospital and grounds, is served by an independent water system, owned by Cannon Memorial Hospital. The hospital could continue to operate its own system until such time as the Town could purchase the system or extend municipal water lines to the hospital.

Areas "B" and "D" are presently served by individual wells and septic tanks. The Town would extend water lines into these areas within one year from the date of annexation. New customers would be charged municipal rates. Revenue bonds could be sold to defer the immediate cost of extensions.

Area "C" is served by a well and distribution system owned by property owners of Hanging Rock Estates subdivision. This area could continue to operate its own water system.

Sanitary Sewerage System

Presently, the only sanitary sewerage system or treatment plant in Banner Elk is the treatment plant owned by Lees McRae College. The remainder of the Town, excluding Cannon Memorial Hospital, uses septic tanks or outdoor privies for sewage disposal. This plant is part of a joint municipal-college treatment plant plan designed in 1961; however, the Town's portion of the system was never built.

The existing wastewater treatment plant is a primary-secondary type plant with aeration which bacterially treats the sewage to reduce the organic strength. The treated sewage is discharged into the Elk River which is classified C-Trout and has a 7 day-10 year low flow of 2.8 M.G.D. The design capacity is 165,000 gallons of raw sewage per day. Presently, the load per day from the college and hospital is 150,000 gallons per day.

Currently, the Avery County Board of Commissioners has been designated the lead agency for a 201 facilities plan for Banner Elk and surrounding area. 201 planning is conducted prior to building or modifying a sewage treatment plant and its related facilities, such as sewer lines. The result will be a highly detailed plan containing a wealth of technical and environmental data. The information is used to evaluate alternative courses of action so that a community can get the most benefit from a given expenditure. Evaluated annually the plan defines sewer needs in the area over the next 20 years. The engineering firm conducting the study is Moore-Gardner Associates of Asheboro, North Carolina.

CHAPTER X

COST-REVENUE ESTIMATES

Estimated revenues and costs for the extension of municipal services for each study area are of primary concern in determining whether or not annexation should occur. Revenues and costs are estimates based on current, available information.

Revenue Estimates

Estimates of revenues which Banner Elk can expect from annexation were derived from the land use survey analysis, the Town's annual budget, and the Avery County Tax Supervisor's Office. All estimates are computed on an annual basis and represent revenues that can be collected from each area as they are currently developed.

It should be noted that some of the newest houses have not been appraised and added to Avery County tax rolls. When this was encountered, conservative estimates were calculated.

Sources of revenue for the Town of Banner Elk are as follows:

- 1) Real Property Tax. The assessed valuation (100%) of property in each study area was obtained from the Avery County Tax Supervisor's Office. The assessed valuations were then multiplied by \$.65 per \$100.00 valuation to arrive at anticipated real property revenues. Based on an examination of tax records, real property valuation in Study "A" was estimated to have an average assessed valuation of \$165,928. Residential property in Area "B" was estimated to have an average assessed valuation of \$106,781. Area "C" was assessed at \$263,105. Area "D" was assessed at \$100,156.
- 2) Personal Property Tax. The personal property tax for residential property was estimated at ten percent (10%) of the assessed value of the

real property. Since mobile homes are taxed as personal property, their value was estimated to average \$3,000 each. It should be noted that these values will decrease each year since mobile homes depreciate with age. No personal property taxes are derived from undeveloped property.

- 3) Powell Bill Funds. The State levies and collects a tax on every gallon of motor fuel sold in the State. From this tax, one cent on each gallon taxed is allocated for and distributed back to the municipalities. The municipalities share three-fourths of a cent based on "Population Estimates for Local Governmental Tax Distribution" calculated annually by the Office of State Planning, and one-fourth cent based on mileage of Town maintained streets. The current allocation is \$8.99 per capita and \$655.40 per mile. The Town could expect to receive an additional \$1,477.07 in Powell Bill Funds in newly annexed areas.
- 4) Franchise Tax. Franchise taxes are collected by the State from such public service companies as gas, telephone, lights and power, bus, water and sewer companies. Municipalities receive from the State three percent of the total gross receipts derived from the sale of commodities within the municipality. The amount of franchise tax revenue anticipated by Banner Elk during the 1976-77 fiscal year is \$2,300, or approximately 3.05 per capita.
- 5) Sales Tax. Avery County levies a one percent sales tax ("piggyback" on the States) that is collected and distributed by the State. In Avery County these monies are allocated to municipalities on the basis of annual population estimates prepared by the Office of State Planning. During the 1976-77 fiscal year Banner Elk expects revenues from this source to total \$14,000 or approximately \$18.56 per capita.

- 6) Intangibles Tax. The State collects intangible tax on such personal property as cash, stocks and bonds and returns 90 to 95 percent of these funds to the counties and municipalities on the basis of population. The funds in turn are distributed among the county and its municipalities according to the latest levy of ad valorem taxes. Banner Elk currently receives about \$.0467 of intangible tax revenues per dollar of ad valorem (real and personal) tax revenue.
- 7) Water Revenues. Water revenues were based on an average consumption of 6,000 gallons per month per household. A slight decrease in revenues would occur as a result of any annexation.
- 8) Revenue Sharing. General revenue sharing from the Federal government may or may not continue to be a source of revenue in the future. Allocations are based on Federal decennial census population figures as well as other variables. According to State treasury officials, even if Banner Elk should annex substantial population, revenue sharing allocations may not be increased for several years. In view of uncertainty about increased revenues from this source, it is not included in revenue estimates for annexation.
- 9) Auto License Fees. The Town of Banner Elk requires that each motor vehicle owner purchase and display a \$1.00 town license sticker annually. Approximately \$.80 of the fee is returned to the Town. An estimate of 1.46 vehicles per dwelling unit was used for this study.*
- 10) Garbage Collection and Disposal. Trash removal estimates were based on an average of \$3.00 per family per month. Since residents outside the corporate limits pay a higher fee (\$4.50 per month), this would result in slightly lower revenues to the Town.

*Information supplied by the N. C. Department of Motor Vehicles.

Cost Estimates

- 1) Water System. Expansion of the Town's water lines will constitute the largest single cost. Cost estimates for extension of lines were based on \$4.00 per linear foot for a 2" line, and \$9.00 per linear foot for a 6" line.
- 2) Police. Police protection will continue to be provided by the Banner Elk Police Department. Since the proposed study areas are already being provided police protection, no additional costs will be incurred by the Town.
- 3) Fire. Fire protection will continue to be provided by the Banner Elk Volunteer Fire Department at no additional cost to the Town. Home-owners in newly annexed areas may receive slightly lower insurance rates when Town water and hydrants are installed.
- 4) Garbage Collection and Disposal. Since garbage collection is currently provided all residents in the proposed annexation study areas with the exception of Cannom Memorial Hospital, no additional costs would be incurred by the Town.
- 5) Street Lights. Annual costs for maintenance of street lights were estimated to be \$12.00 per light.
- 6) Street Maintenance. Cost of maintaining streets was estimated to equal Powell Bill Funds.

TABLE 1

ESTIMATED REVENUES AND COSTS

<u>Estimated Annual Revenues</u>	<u>Area "A"</u>	<u>Area "B"</u>	<u>Area "C"</u>	<u>Area "D"</u>	<u>Total</u>
Real Property Tax at 91% Collection Rate	\$981.46	\$631.60	\$1,556.26	\$592.41	\$3,761.73
Personal Property Tax at 91% Collection Rate	610.00	112.99	155.61	54.05	932.65
[Real & Personal Totals]	1,591.46	744.59	1,711.87	646.46	4,694.38]
Powell Bill	-0-	454.72 (.20 mile)	500.59 (.27 mile)	521.76 (.22 mile)	1,477.07
Municipal Auto Tags	-0-	12.85	12.85	15.18	40.88
Intangible Tax	74.32	34.77	79.94	30.19	219.22
Franchise Tax	-0-	109.80	109.80	128.10	347.70
Sales Tax	-0-	668.16	668.16	779.52	2,115.84
Water Department Revenue	-0-	77.00	77.00	91.00	245.00
General Revenue Sharing*	-0-	-0-	-0-	-0-	-0-
Garbage Collection and Disposal	-0-	396.00	396.00	468.00	1,260.00
Total Revenues	\$1,665.78	\$2,497.89	\$3,556.21	\$2,680.21	\$10,400.09

*Not Estimated

<u>Estimated Annual Costs</u>	<u>Area "A"</u>	<u>Area "B"</u>	<u>Area "C"</u>	<u>Area "D"</u>	<u>Total</u>
Police Protection	-0-	-0-	-0-	-0-	-0-
Garbage Collection & Disposal	-0-	-0-	-0-	-0-	-0-
Street Lights	-0-	24.00	36.00	12.00	72.00

TABLE 1 (Continued)

<u>Estimated Annual Costs</u>	<u>Area "A"</u>	<u>Area "B"</u>	<u>Area "C"</u>	<u>Area "D"</u>	<u>Total</u>
Street Maintenance	-0-	-0-	-0-	-0-	-0-
Total Costs	-0-	\$24.00	\$36.00	\$12.00	\$72.00
<u>Estimated Initial Capital Investments</u>	<u>Area "A"</u>	<u>Area "B"</u>	<u>Area "C"</u>	<u>Area "D"</u>	<u>Total</u>
Water Line Extension	-0-	\$8,000.00	-0-	\$10,800.00	\$18,800.00

CHAPTER XI

APPLICABILITY OF LAWS - STUDY AREA "A"

- 1) From and after the effective date of the annexation, the annexed area, its citizens, and property are subject to all debts, laws, ordinances, and regulations of the annexing city, and are entitled to the same privileges and benefits.
- 2) The tax liability of the annexed area for the fiscal year in which it is annexed is a pro-rata portion of the total taxes which would be due if the area had been annexed immediately prior to the beginning of the fiscal year. To compute the pro-rata tax liability, apply the following ratio against the total tax liability of the area:

$$\begin{array}{ll} \text{(numerator)} & 365 \text{ minus the number of days between the preceding} \\ & \text{July 1 and the effective date of annexation} \\ \text{(denominator)} & \underline{365} \end{array}$$

For example, if the effective date of annexation were September 1, and the total tax liability of an annexed parcel were \$300, the pro-rata taxes due upon the annexed property would be computed as follows:

$$\$300 \times \frac{365 - 60 \text{ days}}{365} = \$300 \times \frac{305}{365} = \$252$$

- 3) The due date for municipal taxes on the annexed area shall be the effective date of the annexation. Taxes are payable at par for 120 days. To taxes paid after 120 days but before 150 days from the due date, interest at the rate of 2% attaches. Thereafter, interest at the rate of 3/4 of one per cent shall be added per 30 days or fraction thereof until the total taxes plus interest are paid.

APPLICABILITY OF LAWS - STUDY AREAS "B" AND "D"

- 1) From and after the effective date of the annexation, the annexed area, its citizens, and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits.
- 2) The tax liability of the annexed area for the fiscal year in which it is annexed is a pro-rata portion of the total taxes which would be due if the area had been annexed immediately prior to the beginning of the fiscal year. To compute the pro-rata tax liability, apply the following ratio against the total tax liability of the area:

$$\begin{array}{ll} \text{(numerator)} & 365 \text{ minus the number of days between the preceding} \\ & \text{July 1 and the effective date of annexation} \\ \text{(denominator)} & \underline{365} \end{array}$$

For example, if the effective date of annexation were September 1, and the total tax liability of an annexed parcel were \$300, the pro-rata taxes due upon the annexed property would be computed as follows:

$$\$300 \times \frac{365 - 60 \text{ days}}{365} = \$300 \times \frac{305}{365} = \$252$$

- 3) The due date for city taxes on the annexed area shall be the effective date of the annexation. Taxes are payable at par for 120 days. To taxes paid after 120 days but before 150 days from the due date, interest at the rate of 2% attaches. Thereafter, interest at the rate of 3/4 on one per cent shall be added per 30 days or fraction thereof until the total taxes plus interest are paid.

APPLICABILITY OF LAWS - STUDY AREA "C"

- 1) City Taxes, Debts, Ordinances. From and after the effective date of the annexation, the annexed area, its citizens, and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits.

The tax liability of the annexed area for the fiscal year in which it is annexed is a pro-rata portion of the total taxes which would be due if the area had been annexed immediately prior to the beginning of the fiscal year. To compute the pro-rata tax liability, apply the following ratio against the total tax liability of the area:

$$\begin{array}{ll} \text{(numerator)} & 365 \text{ minus the number of days between the preceding} \\ & \text{July 1 and the effective date of annexation} \\ \text{(denominator)} & \underline{365} \end{array}$$

For example, if the effective date of annexation were September 1, and the total tax liability of an annexed parcel were \$300, the pro-rata taxes due upon the annexed property would be computed as follows:

$$\$300 \times \frac{365 - 60 \text{ days}}{365} = \$300 \times \frac{305}{365} = \$252$$

The due date for city taxes on the annexed area shall be the effective date of the annexation. Taxes are payable at par for 120 days. To taxes paid after 120 days but before 150 days from the due date, interest at the rate of 2% attaches. Thereafter, interest at the rate of 3/4 of one per cent shall be added per 30 days or fraction thereof until the total taxes plus interest are paid.

- 2) Extraterritorial Powers. The satellite corporate boundaries may not be used in determining the limits of the annexing municipality's extraterritorial jurisdiction.
- 3) Special Rates for Water, Sewer, and Other Services. The annexing city may charge different rates for public enterprise services, as defined in G.S. 160A-314 to residents of the satellite area from those charged residents of

the primary corporate limits.

A city providing such services to annexed satellite areas shall annually review the costs of providing these services to insure that costs do not exceed revenues realized therefrom.

- 4) Satellite Areas May Merge with Primary Corporate Limits. An annexed non-contiguous area ceases to be a satellite area under applicable laws when further annexations cause its boundaries and those of the primary corporate limits to touch.
- 5) Local Satellite Acts Repealed. All local acts setting up procedures for satellite annexations for particular cities are no longer effective.

CHAPTER XII

PROCEDURES

A. ANNEXATION BY PETITION OF ALL OWNERS OF REAL PROPERTY--STUDY AREA "A"

- 1) Petition Required. A petition describing the area proposed for annexation containing the names, signatures, and addresses of all owners of real property in the area must be presented to the governing body. (See Sample Petition, pg. 37).

When the petition is received, the governing body directs the clerk to investigate the sufficiency of the petition (Sample resolution, pg. 38). Upon verification of the petition, the clerk shall certify the results to the governing body. (Sample Certification of Sufficiency, pg. 39).

- 2) Public Hearing. Upon receipt of the clerk's certificate, the governing body shall fix a date for a public hearing. (Sample Resolution, pg. 40), and shall publish notice of the public hearing in a newspaper having general circulation in Banner Elk at least ten (10) days prior to the date of the hearing. (See Notice of Public Hearing, pg. 41).

At the hearing all property owners in area alleging an error in the petition shall be given an opportunity to speak, as well as residents of Banner Elk who question the necessity of the annexation.

- 3) Petition Verified and Ordinance Adopted. The governing body then determines whether the petition meets the requirements of G.S. 160A-31. If the petition is found valid in every respect, the governing body may then pass an ordinance annexing the area described in the petition. (Annexation Ordinance, pg. 42). The governing body has the authority to make the ordinance effective immediately or on any specified date within six (6) months from the date of passage of the ordinance.

B. ANNEXATION OF AREAS MEETING STATUTORY REQUIREMENTS - AREAS "B" AND "D"

1) Resolution of Intent. The governing body first adopts a resolution stating the intent of Banner Elk to consider the annexation(s). The resolution must describe the boundaries of the proposed area(s) and fix a date for a public hearing to be held between thirty (30) and sixty (60) days following the date of adoption of the resolution. (Resolution of Intent, pg. 43).

2) Notice of Public Hearing. The notice of public hearing must fix the date, hour, and place of the hearing; describe the boundaries of the area(s) to be annexed; and state that the annexation report will be available at the clerk's office at least fourteen (14) days prior to the hearing. (Notice of Public Hearing, pg. 44).

The notice must be published in a newspaper having general circulation in Banner Elk once a week for at least four (4) successive weeks prior to the public hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, must not be less than twenty-two (22) days including Sundays. The date of the last publication must be within seven (7) days preceding the date of the public hearing.

3) Approval of the Annexation Report. The governing body must approve the annexation report at least fourteen days prior to the public hearing and make the report available to the public at the clerk's office. Approval of the report should be recorded in the minutes of the governing body. (Recording Approval, pg. 45).

4) Public Hearing. At the public hearing, a representative of Banner Elk must explain the report of service plans. All residents or property owners in the area(s) and all residents of Banner Elk must be given an opportunity to be heard.

After considering all comments, the governing body may amend the report as long as the changes meet statutory requirements.

- 5) Adoption. At a regular or special meeting held no earlier than seven (7) days and no later than sixty (60) days following the public hearing, the governing body may adopt an ordinance extending the corporate limits. (Annexation Ordinance, pg. 46).
- 6) Notice of Adoption of Ordinance. Although not required by law, it is recommended that notice be published of the adoption of the annexation ordinance. (See Notice of Adoption, pg. 48).

C. ANNEXATION OF NON-CONTIGUOUS, "SATELLITE" AREAS -- STUDY AREA "C"

- 1) Petition Required. A petition containing the names, signatures, and addresses of all owners of real property within the proposed satellite area, must be presented to the governing body. Owners of tax-exempt real property, railroad companies, public utilities, and electric or telephone membership corporations located within the proposed satellite area need not sign the petition.

The petition must describe the proposed area by metes and bounds and have a map attached illustrating the proposed satellite area in relation to the primary corporate limits (Sample, Petition, pg. 49).

- 2) Petition Verification. Upon receipt of the petition, the governing body directs the clerk to investigate the sufficiency of the petition (Resolution of Investigation, pg. 50). Upon completion of the investigation, the clerk certifies the results to the governing body (Certification of Sufficiency, pg. 51).

- 3) Notice of Public Hearing. After certifying the petition, the governing body shall fix a date of a public hearing on satellite area (resolution fixing date of public hearing, pg. 52). Notice of the hearing must be published in a newspaper at least ten (10) days prior to the date of the hearing (Notice of Public Hearing, pg. 53).

At the hearing, any resident or property owner in the proposed satellite area and any resident of Banner Elk alleging an error in the petition or questioning the feasibility of the annexation may be given a chance to speak.

- 4) Findings Made and Ordinance Adopted. After the petition is verified and the area is certified as meeting the requirements of G.S. - 160A-58, the governing body may pass an ordinance annexing the satellite area described in the petition. (Annexation Ordinance, pg. 54). The ordinance

may be made effective immediately on or within six (6) months of passage of the ordinance.

APPENDIX A

FOR ANNEXATION BY PETITION - STUDY AREA "A"

PETITION REQUESTING ANNEXATION

Date: _____

To the (name of governing body) of the (City)(Town) of _____.

1) We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the (City)(Town) of _____.

2) The area to be annexed is contiguous to the (City)(Town) of _____ and the boundaries of such territory are as follows:

(Insert Description of Boundaries)

NAME

ADDRESS

- 1)
- 2)
- 3)

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting annexation of an area described in said petition has been received on _____ (date) _____ by the (name of governing body); and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the (City)(Town) Clerk before further annexation proceedings may take place; and

WHEREAS, the (name of governing body) of the (City)(Town) of _____ deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the (name of governing body) of the (City)(Town) of _____:

That the (City)(Town) Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the (name of governing body) the result of (his)(her) investigation.

Mayor

ATTEST:

Clerk

FOR ANNEXATION BY PETITION - STUDY AREA "A"

CERTIFICATE OF SUFFICIENCY

To the (name of governing body) of the (City)(Town) of _____
_____, North Carolina.

I, _____, (City)(Town) Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31, as amended.

In witness whereof, I have hereunto set my hand and affixed the seal of the (City)(Town) of _____, this _____ day of _____, 19 ____.

(SEAL)

(City)(Town) Clerk

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-31, AS AMENDED

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the (name of governing body) has by resolution directed the (Town) (City) Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the (City)(Town) Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the (name of governing body) of the (City)(Town) of _____, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein will be held at (place of hearing) at _____ o'clock, _____.m. on the _____ day of _____, 19 ____.

Section 2. The area proposed for annexation is described as follows:

(Insert Metes and Bounds Description)

Section 3. Notice of said public hearing shall be published in the _____, a newspaper having general circulation in the (City)(Town) of _____, at least ten (10) days prior to the date of said public hearing.

Mayor

ATTEST:

Clerk

NOTE: If notice must be posted, rather than published, Section 3 of the foregoing resolution may read as follows:

Section 3. Notice of said public hearing shall be posted in at least three (3) public places within the area described in Section 2 herein and in at least three (3) public places in the (City)(Town) of _____.

NOTICE OF PUBLIC HEARING ON
REQUEST FOR ANNEXATION

The public will take notice that the (name of governing body) of the
(City)(Town) of _____ has called a public hearing at _____
o' clock ____m. on the _____ day of _____, 19____, at the (place
of hearing) on the question of annexing the following described territory,
requested by petition filed pursuant to G.S. 160A-31, as amended:

(Insert Metes and Bounds Description)

(City)(Town) Clerk

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE (CITY) (TOWN) OF _____, NORTH CAROLINA

WHEREAS, the (name of governing body) has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the (name of governing body) has by resolution directed the (Town) (City) Clerk to investigate the sufficiency of said petition; and

WHEREAS, the (City)(Town) Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at (place of hearing) at _____ o'clock ____ .m. on the _____ day of _____, 19 __, after due notice by (publication)(posting) on the _____ day of _____, 19 __; and

WHEREAS, the (name of governing body) does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City)(Town) of _____, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory is hereby annexed and made part of the (City) (Town) of _____ as of the _____ day of _____, 19 __.

(Insert Metes and Bounds Description)

Section 2. Upon and after the _____ day of _____, 19 __, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City)(Town) of _____ and shall be entitled to the same privileges and benefits as other parts of the (City)(Town) of _____. Said territory shall be subject to municipal taxes according to G.S. 160A-31(e), as amended.

Section 3. The Mayor of the (City)(Town) of _____ shall cause to be recorded in the office of the Register of Deeds of _____ County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance.

*Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the (City) (Town) of _____.

Adopted this _____ day of _____, 19 __.

Mayor

ATTEST:

Clerk

APPROVED AS TO FORM:

(City)(Town) Attorney

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS
STUDY AREAS B & D

A RESOLUTION STATING THE INTENT OF THE (CITY)(TOWN)
OF _____, TO CONSIDER ANNEXATION OF THE AREA
DESCRIBED HEREIN AND FIXING THE DATE OF PUBLIC HEARING
ON THE QUESTION OF ANNEXATION

BE IT RESOLVED, by the (name of governing body) of the (City)(Town) of _____:

Section 1. That it is the intent of the (name of governing body) of the (City)(Town) of _____, to consider annexation of the following described territory pursuant to Part 2, Article 4A, of Chapter 160A of the General Statutes of North Carolina:

(Insert Metes and Bounds Description)

Section 2. That a public hearing on the question of annexing the above described territory will be held at (place of hearing) at _____ o'clock, ____m., on the _____ day of _____, 19 __, at which time plans for extending services to said territory will be explained and all residents of the (City)(Town) of _____, will be given an opportunity to be heard.

Section 3. That a report of plans for extending services to the above described territory be made available for public inspection at the office of the (City)(Town) Clerk at least fourteen (14) days prior to the date of said public hearing.

Section 4. That notice of said public hearing shall be given by (publication)(posting) as required by law.

Adopted this _____ day of _____, 19 __.

Signed _____
Mayor

ATTEST:

Clerk

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS
STUDY AREAS B & D

NOTICE OF PUBLIC HEARING ON QUESTIONS OF ANNEXATION

The public will take notice that the (name of governing body) of the (City)(Town) of _____ will hold a public hearing at (place of hearing) at _____ o'clock, _____.m. on the _____ day of _____, 19 __, on the question of annexation of the territory described below, pursuant to Part 2, Article 4A, Chapter 160A of the General Statutes of North Carolina, at which time the plans for extending municipal services to said territory will be explained and all persons resident or owning property in said territory and all residents of the (City)(Town) of _____, will be given an opportunity to be heard.

The report of plans for extending services to said territory will be available for public inspection at the office of the (City)(Town) Clerk at least fourteen (14) days prior to the date of said public hearing. (In addition,¹ summaries of the full report will be available for public distribution.)

The area to be considered for annexation is described as follows:

(Insert Metes and Bounds Description)

Signed _____

(City)(Town) Clerk

¹To be used if appropriate.

FOR ANNEXATION BY ORDINANCE OF AREAS MEETING STATUTORY STANDARDS
STUDY AREAS B & D

EXCERPT FOR RECORDING APPROVAL IN MINUTES

"After examination and discussion of the report of plans for extending services to the area to be considered for annexation under Resolution No. ___, adopted the ___ day of ___, 19 ___, Mr(s). ___ moved approval of the report, seconded by Mr(s). ___ and passed, ___ votes to ___."

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
(CITY) (TOWN) OF _____, UNDER THE AUTHORITY
GRANTED BY PART 2, ARTICLE 4A, CHAPTER 160A OF THE
GENERAL STATUTES OF NORTH CAROLINA

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Part (2), Article 4A, Chapter 160A of the General Statutes of North Carolina, have been met; and

WHEREAS, the (name of governing body) has taken into full consideration the statements presented at the public hearing held on the ____ day of _____, 19 __, on the question of this annexation; and

WHEREAS, the (name of governing body) has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the (City)(Town) of _____:

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City)(Town) of _____:

Section 1. That from and after the _____ day of _____, 19 __, the effective date of this annexation, the following territory shall be annexed to and become a part of the (City)(Town) of _____, and the corporate limits of the (City)(Town) of _____ shall on said _____ day of _____, 19 __, be extended to include said territory more particularly described by metes and bounds as follows:

(Insert Metes and Bounds Description)

Section 2. That the (name of governing body) does hereby specifically find and declare that the above described territory meets the requirements of G.S. 160A-36, in that:

SET FORTH IN DETAIL STATEMENTS SHOWING HOW AREA
ACTUALLY MEETS THE STATUTORY STANDARDS. THIS
SECTION MAY REITERATE THE CORRESPONDING STATEMENT
IN THE REPORT OF PLANS FOR SERVICES.

Section 3. That it is the purpose and intent of the (City)(Town) of _____, to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the (name of governing body) on the _____ day of _____, 19 __, and filed in the office of the Clerk for public inspection.

(Continued on following page)

ALTHOUGH THE FOREGOING MAY SATISFY THE STATUTORY REQUIREMENT, IT IS RECOMMENDED THAT THE PLANS FOR SERVICES BE SET FORTH IN THIS SECTION IN DETAIL, IN SUBSTANTIALLY THE SAME LANGUAGE AS IN THE REPORT, INsofar AS MAY BE APPROPRIATE.

Section 4. That the (name of governing body) does hereby specifically find and declare that, on the effective date of annexation prescribed in Section 1 hereof, the (City)(Town) of _____ will have sufficient funds appropriated in the amount of \$ _____, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the (City)(Town) of _____ into the area to be annexed under this ordinance.

NOTE: If bonds must be issued, the bond authorization is equivalent to an appropriation. However, if bonds are authorized, it is recommended that such be stated in this section.

Section 5. That from and after the effective date of this annexation, the territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City)(Town) of _____, and shall be entitled to the same privileges and benefits as other parts of the (City)(Town).

Section 6. That the newly annexed territory described hereinabove shall be subject to (City)(Town) taxes according to G.S. 160A-37(f), as amended.

Section 7. That the Mayor of the (City)(Town) of _____ shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of this ordinance, to be recorded in the office of the register of deeds of _____ County, and in the office of the Secretary of State at Raleigh.

*Section 8. That notice of the adoption of this ordinance shall be published once in a newspaper having general circulation in the (City)(Town) of _____.

Adopted this _____ day of _____, 19 ____.

Signed _____
Mayor

ATTEST:

Clerk

*Optional

FOR ANNEXATION BY ORDINANCE FOR AREAS MEETING STATUTORY STANDARDS
STUDY AREAS B & D

NOTICE OF ADOPTION OF ANNEXATION ORDINANCE *

The public will take notice that the (name of governing body) of the (City)(Town) of _____ adopted the ordinance pursuant to Part(2), Article 4A, Chapter 160A of the General Statutes of North Carolina, annexing as of the _____ day of _____, 19 __, the territory described below.

Said ordinance was adopted on the _____ day of _____, 19 __, and within thirty (30) days from said date, any person owning property in said territory who shall believe that he will suffer material injury by reason of any failure of the (name of governing body) to comply with the procedure or requirements prescribed by Part (2), Article 4A, Chapter 160A of the General Statutes of North Carolina, may file a petition in the Superior Court of _____ County, seeking review of the action of the (name of governing body).

The territory annexed under said ordinance is more particularly described as follows:

(Insert Metes and Bounds Description)

Signed _____
(City)(Town) Clerk

*Optional.

FOR ANNEXATION BY PETITION OF NON-CONTIGUOUS AREA
STUDY AREA C

PETITION REQUESTING A NON-CONTIGUOUS ANNEXATION

Date: _____

To the (name of governing body) of the (City)(Town) of _____.

1) We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the (City)(Town) of _____.

2) The area to be annexed is non-contiguous to the (City)(Town) of _____ and the boundaries of such territory are as follows:

(Insert Metes and Bounds Description of Boundaries)

3) A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the (City)(Town).

*and in relation to the primary corporate limits of the (City)(Town) of _____.

NAME

ADDRESS

- 1)
- 2)
- 3)

*Should be included when there is substantial question as to whether the area may be closer to another city than to the annexing city.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-58.1

FOR ANNEXATION BY PETITION OF NON-CONTIGUOUS AREA
STUDY AREA C

CERTIFICATE OF SUFFICIENCY

To the (name of governing body) of the (City)(Town) of _____
_____, North Carolina.

I, _____, (City)(Town) Clerk, do hereby certify that I
have investigated the petition attached hereto and have found as a fact that
said petition is signed by all owners of real property lying in the area des-
cribed therein, in accordance with G.S. 160A-58.1, as amended.

In witness whereof, I have hereunto set my hand and affixed the seal of
the (City)(Town) of _____, this _____ day of _____,
19 ____.

(SEAL)

Town Clerk

FOR ANNEXATION BY PETITION OF NON-CONTIGUOUS AREA
STUDY AREA C

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-58.2, AS AMENDED

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the (name of governing body) has by resolution directed the (City)(Town) Clerk to investigate the sufficiency of said petition; and

WHEREAS, certification by the (City)(Town) Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED, by the (name of governing body) of the (City)(Town) of _____, North Carolina:

Section 1. That a public hearing on the question of annexation of the non-contiguous area described herein will be held at (place of hearing) at _____ o'clock, __.m. on the _____ day of _____, 19 __.

Section 2. The area proposed for annexation is described as follows:

(Insert Metes and Bounds Description)

Section 3. Notice of said public hearing shall be published once in the _____, a newspaper having general circulation in the (City)(Town) of _____, at least ten (10) days prior to the date of said public hearing.

Mayor

ATTEST:

(City)(Town) Clerk

FOR ANNEXATION BY PETITION OF NON-CONTIGUOUS AREA
STUDY AREA C

NOTICE OF PUBLIC HEARING ON REQUEST
FOR NON-CONTIGUOUS ANNEXATION

The public will take notice that the (name of governing body) of the (City)(Town) of _____ has called a public hearing at _____ o'clock, .m. on the _____ day of _____, 19 __, at the (place of hearing) on the question of annexing the following described non-contiguous territory, requested by petition filed pursuant to G.S. 160A-58.1, as amended:

(Insert Metes and Bounds Description)

(City)(Town) Clerk

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF
THE (CITY)(TOWN) OF _____, NORTH CAROLINA

WHEREAS, the (name of governing body) has been petitioned under G.S. 160A-58.1, as amended, to annex the area described herein; and

WHEREAS, the (name of governing body) has by resolution directed the (City)(Town) Clerk to investigate the sufficiency of said petition; and

WHEREAS, the (City)(Town) Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at (place of hearing) at _____ o'clock, ____m. on the _____ day of _____, 19 ____; and

WHEREAS, the (name of governing body) further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a) The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the (City)(Town),
- b) No point on the proposed satellite corporate limits is closer to another city than to the (City)(Town),
- c) The area described is so situated that the (City)(Town) will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits,
- d) No subdivision, as defined in G.S. 160A-376, will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits,
- e) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten per cent (10%) of the area within the primary corporate limits of the (City)(Town); and

WHEREAS, the (name of governing body) does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1, as amended;

WHEREAS, the (name of governing body) further finds that the petition is otherwise valid, and that the public health, safety and welfare of the (City)(Town) and of the area proposed for annexation will be best served by annexing the area described therein;

(Continued on following page)

NOW, THEREFORE, BE IT ORDAINED by the (name of governing body) of the (City)(Town) of _____, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following described non-contiguous territory is hereby annexed and made part of the (City)(Town) of _____, as of the _____ day of _____, 19 ____.

(Insert Metes and Bounds Description)

Section 2. Upon and after the _____ day of _____, 19 ____, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the (City)(Town) of _____ and shall be entitled to the same privileges and benefits as other parts of the (City)(Town) of _____. Said territory shall be subject to municipal taxes according to G.S. 160A-58.3, as amended.

Section 3. The Mayor of the (City)(Town) of _____ shall cause to be recorded in the office of the Register of Deeds of _____ County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance.

*Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the (City)(Town) of _____.

Adopted this _____ day of _____, 19 ____

Mayor

ATTEST:

Approved as to form:

(City)(Town) Clerk

(City)(Town) Attorney

*Optional.

APPENDIX B

ENVIRONMENTAL CONSIDERATIONS

Pursuant to the requirements and guidelines on the National Environmental Policy Act, the Council on Environmental Quality, the U. S. Department of Housing and Urban Development, and the North Carolina Environmental Policy Act, the following is a summary of environmental considerations regarding this annexation study.

- 1) Abstract. This study is prepared to assist the Town of Banner Elk in determining if the four proposed areas meet the statutory requirements of state law and if the annexations are feasible.
- 2) Environmental Impact. If any or all of the annexations occur, they would likely have a favorable environmental impact for the following reasons: (a) enlarged town limits would provide a higher tax base, thereby allowing the Town to provide improved services and facilities to help protect the environment; (b) enlarged town limits would allow the Town to develop economically; (c) annexation would guide and direct growth outside the Town.
- 3) Adverse Environmental Effects. The extension of water lines into two of the proposed areas would spur further growth and development of more land, thus temporarily increasing erosion and thereby reducing natural vegetation and increasing water run-off. However, this would have little far-reaching effect on the area.
- 4) Alternatives. If Banner Elk does not annex, the Town could lose population and its ability to provide a balanced people-jobs-environment relationship could be seriously threatened.
- 5) Relationship Between Short-Term Uses of Man's Environment and Maintenance of Long-Term Productivity. By annexing areas contiguous to the Town and providing them with needed public services, it will help maintain long term land and water productivity thru a decrease in pollution of these resources.

- 6) Irreversible Commitments of Resources. None.
- 7) Applicable Federal, State and Local Environmental Controls. All Federal, State and local environmental controls currently being enforced will be applicable to any annexation in the planning area.
- 8) Mitigation Measures. Not applicable since undesirable environmental consequences of annexation are not anticipated.

APPENDIX C

GENERAL STATUTES

OF

NORTH CAROLINA RELATED TO ANNEXATION

§ 160A-31. **Annexation by petition.** -- (a) The governing board of any municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all the real property located within such area. The petition shall be signed by each owner of real property in the area and shall contain the address of each such owner.

(b) The petition shall be prepared in substantially the following form:

DATE:

To the (name of governing board) of the (City or Town) of

1. We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the (City or Town) of

2. The area to be annexed is contiguous to the (City or Town) of and the boundaries of such territory are as follows:

(c) Upon receipt of the petition, the municipal governing board shall cause the clerk of the municipality to investigate the sufficiency thereof and to certify the result of his investigation. Upon receipt of the certification, the municipal governing board shall fix a date for a public hearing on the question of annexation, and shall cause notice of the public hearing to be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing; provided, if there be no such paper, the governing board shall have notices posted in three or more public places within the area to be annexed and three or more public places within the municipality.

(d) At the public hearing all persons owning property in the area to be annexed who allege an error in the petition shall be given an opportunity to be heard, as well as residents of the municipality who question the necessity for annexation. The governing board shall then determine whether the petition meets the requirements of this section. Upon a finding that the petition meets the requirements of this section, the governing board shall have authority to pass an ordinance annexing the territory described in the petition. The governing board shall have authority to make the annexing ordinance effective immediately or on any specified date within six months from the date of passage of the ordinance.

(e) From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(f) For purposes of this section, an area shall be deemed "contiguous" if, at the time the petition is submitted, such area either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina. In describing the area to be annexed in the annexation ordinance, the municipal governing board may include within the description any territory described in this subsection which separates the municipal boundary from the area petitioning for annexation. (1947, c. 725, s. 8; 1959, c. 713; 1973, c. 426, s. 74.)

§ 160A-32. **Powers granted supplemental.** -- The powers granted by this Article shall be supplemental and additional to powers conferred by any other law, and shall not be regarded as in derogation of any powers now existing: Provided, that this Article shall not apply to any town or municipality in Dare County. (1947, c. 725, s. 9; 1951, c. 824; 1959, c. 427; 1973, c. 426, s. 74.)

Part 2. Annexation by Cities of Less than 5,000.

§ 160A-33. Declaration of policy. — It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and government purposes or in areas undergoing such development;
- (3) That municipal boundaries should be extended, in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare; and
- (4) That new urban development in and around municipalities having a population of less than 5,000 persons tends to be concentrated close to the municipal boundary rather than being scattered and dispersed as in the vicinity of larger municipalities, so that the legislative standards governing annexation by smaller municipalities can be simpler than those for large municipalities and still attain the objectives set forth in this section;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (1959, c. 1010, s. 1; 1973, c. 426, s. 74.)

§ 160A-34. Authority to annex. — The governing board of any municipality having a population of less than 5,000 persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this Part. (1959, c. 1010, s. 2; 1973, c. 426, s. 74.)

§ 160A-35. Prerequisites to annexation; ability to serve; report and plans. — A municipality exercising authority under this Part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-37, prepare a report setting forth such plans to provide services to such area. The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as waterlines are made available in such area under existing municipal policies for the extension of waterlines.
 - b. Provide for extension of water mains and sewer lines into the area to be annexed so that property owners in the area to be annexed will be able to secure public water and sewer services according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions. If the municipality must, at its own expense, extend water and/or sewer mains into the area to be annexed before property owners in the area can, according to municipal policies, make such connection to such lines, then the plans must call for contracts to be let and construction to begin on such lines within one year following the effective date of annexation.

- c. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed. (1959, c. 1010, s. 3; 1973, c. 426, s. 74.)

§ 160A-36. Character of area to be annexed. — (a) A municipal governing board may extend the municipal corporate limits to include any area which meets the general standards of subsection (b), and which meets the requirements of subsection (c).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) The area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

(d) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality developed land on both sides of the street. (1959, c. 1010, s. 4; 1973, c. 426, s. 74.)

§ 160A-37. Procedure for annexation. — (a) Notice of Intent. — Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than 30 days and not more than 60 days following passage of the resolution.

(b) Notice of Public Hearing. — The notice of public hearing shall

- (1) Fix the date, hour and place of the public hearing.
- (2) Describe clearly the boundaries of the area under consideration.
- (3) State that the report required in G.S. 160A-35 will be available at the office of the municipal clerk at least 14 days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least four successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than 22 days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public hearing.

(c) Action prior to Hearing. — At least 14 days before the date of the public hearing, the governing board shall approve the report provided for in G.S. 160A-35, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) Public Hearing. — At the public hearing a representative of the municipality shall first make an explanation of the report required in G.S. 160A-35. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) Passage of the Annexation Ordinance. — The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-35 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-35. At any regular or special meeting held no sooner than the seventh day following the public hearing and not later than 60 days following such public hearing, the governing board shall

have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of G.S. 160A-36 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-36. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of G.S. 160A-36(c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.
- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-35.
- (3) A specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amount to finance construction of any water and sewer lines found necessary in the report required by G.S. 160A-35 to extend the basic water and/or sewer system of the municipality into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
- (4) Fix the effective date of annexation. The effective date of annexation may be fixed for any date within 12 months from the date of passage of the ordinance.

(f) Effect of Annexation Ordinance. — From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinance from and after the effective date of annexation.

(g) Simultaneous Annexation Proceedings. — If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this Part for the annexation of such areas.

(h) Remedies for Failure to Provide Services. — If, not earlier than one year from the effective date of annexation, and not later than 15 months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans adopted under the provisions of G.S. 160A-35(3) and 160A-37(e), such person may apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the General Statutes. Relief may be granted by the judge of superior court

- (1) If the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-35(3)a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of G.S. 160A-35(3)a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

- (1) If the plans submitted under the provisions of G.S. 160A-35(3)c require

the construction of major trunk water mains and sewer outfall lines and

(2) If contracts for such construction have not yet been let.

If a writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality. (1959, c. 1010, s. 5; 1967, c. 1226, s. 1; 1973, c. 426, s. 74.)

§ 160A-38. Appeal. — (a) Within 30 days following the passage of an annexation ordinance under authority of this Part, any person owning property in the annexed territory who shall believe that he will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this Part or to meet the requirements set forth in G.S. 160A-36 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within five days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court

(1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth and

(2) A copy of the report setting forth the plans for extending services to the annexed area as required in G.S. 160A-35.

(d) If two or more petitions for review are submitted to the court, the court may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c).

(e) At any time before or during the review proceeding, any petitioner or petitioners may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f) The court shall fix the date for review of annexation proceedings under this Chapter, which review date shall preferably be within 30 days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to show either

(1) That the statutory procedure was not followed or

(2) That the provisions of G.S. 160A-35 were not met, or

(3) That the provisions of G.S. 160A-36 have not been met.

(g) The court may affirm the action of the governing board without change, or it may

(1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.

(2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of G.S. 160A-36 if it finds that the provisions of G.S. 160A-36 have not been met; provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.

(3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of G.S. 160A-35 are satisfied.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within three months from receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party to the review proceedings, including the municipality, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court; provided, that the superior court may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior or Supreme Court, whichever is appropriate, or the date the municipal governing board completes action to make the ordinance conform to the court's instructions in the event of remand. (1959, c. 1010, s. 6; 1973, c. 426, s. 74.)

§ 160A-39. Annexation recorded. — Whenever the limits of a municipality are enlarged in accordance with the provisions of this Part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State. (1959, c. 1010, s. 7; 1973, c. 426, s. 74.)

§ 160A-40. Authorized expenditures. — Municipalities initiating annexations under the provisions of this Part are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study and/or annexation of unincorporated territory adjacent to the municipality. In addition, following final passage of the annexation ordinance, the annexing municipality shall have authority to proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner prior to the effective date of annexation. (1959, c. 1010, s. 8; 1973, c. 426, s. 74.)

§ 160A-41. Definitions. — The following terms where used in this Part shall have the following meanings, except where the context clearly indicates a different meaning:

- (1) "Contiguous area" shall mean any area which, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of North Carolina.
- (2) "Used for residential purposes" shall mean any lot or tract five acres or less in size on which is constructed a habitable dwelling unit. (1959, c. 1010, s. 9; 1973, c. 426, s. 74.)

§ 160A-42. Land estimates. — In determining degree of land subdivision for purposes of meeting the requirements of G.S. 160A-36, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in G.S. 160A-36 have been met on appeal to the superior court under G.S. 160A-38, the reviewing court shall accept the estimates of the municipality:

- (1) As to total area if the estimate is based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable map used for official purposes by a governmental agency unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five percent (5%) or more.
- (2) As to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five percent (5%) or more. (1959, c. 1010, s. 10; 1973, c. 426, s. 74.)

§ 160A-43. Effect of Part on other laws. — From and after July 1, 1959, this Part shall be in full force and effect with respect to all municipalities having a population of less than 5,000 persons according to the last preceding federal decennial census. The provisions of Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina shall remain in full force and effect with respect to such municipalities as an alternative procedure until June 30, 1962. From and after July 1, 1962, all the provisions of Part 1 of Article 36 of Chapter 160 of the General Statutes of North Carolina, with the exception of G.S. 160-452 [G.S. 160A-31] as it exists at the time of the passage of this Part or as it may be amended at this session of the General Assembly, shall be repealed. Insofar as the provisions of this Part are inconsistent with the provisions of any other law, the provisions of this Part shall be controlling. (1959, c. 1010, s. 11; 1961, c. 655, s. 1; 1967, c. 1226, s. 2; 1973, c. 426, s. 74.)

§ 160A-44. Counties excepted from Part; Part 1 continued for such counties. — The provisions of this Part shall not apply to the following counties: Alleghany, Edgecombe, Halifax, Iredell, Nash, except for the towns of Nashville, Spring Hope, Castalia and Middlesex, Pender, Perquimans and Person, provided the provisions of this Part shall apply to the towns of Whitakers, Sharpsburg, and Battleboro in Edgecombe and Nash Counties. This Part shall not apply to the town of King in Stokes County, nor to the town of Pilot Mountain in Surry County.

Notwithstanding any other provisions of this Part, Part 1 of Article 36 of Chapter 160 [Part 1 of Article 4A of Chapter 160A] of the General Statutes of North Carolina and specifically G.S. 160A-31 as the same may be rewritten or amended, shall remain in full force and effect as to the counties herein named. (1959, c. 1010, s. 12; 1961, c. 1081; 1965, cc. 782, 875; 1967, c. 156, s. 1; 1969, c. 438, s. 1; c. 1232; 1971, c. 28; 1973, c. 426, s. 74.)

§ 160A-58. Definitions. — The words and phrases defined in this section have the meanings indicated when used in this Part unless the context clearly requires another meaning:

- (1) "City" means any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.
- (2) "Primary corporate limits" means the corporate limits of a city as defined in its charter, enlarged or diminished by subsequent annexations or exclusions of contiguous territory pursuant to Parts 1, 2, and 3 of this Article or local acts of the General Assembly.
- (3) "Satellite corporate limits" means the corporate limits of a noncontiguous area annexed pursuant to this Part or a local act authorizing or effecting noncontiguous annexations. (1973, c. 1173, s. 2.)

§ 160A-58.1. Petition for annexation; standards. — (a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

(c) The petition shall contain the names, addresses, and signatures of all owners of real property within the proposed satellite corporate limits (except owners not required to sign by subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall have attached thereto a map showing the area proposed for annexation with relation to the primary corporate limits of the annexing city. When there is any substantial question as to whether the area may be closer to another city than to the annexing city, the map shall also show the area proposed for annexation with relation to the primary corporate limits of the other city. The city council may prescribe the form of the petition. (1973, c. 1173, s. 2.)

§ 160A-58.2. Public hearing. — Upon receipt of a petition for annexation under this Part, the city council shall cause the city clerk to investigate the petition, and to certify the results of his investigation. If the clerk certifies that upon investigation the petition appears to be valid, the council shall fix a date for a public hearing on the annexation. Notice of the hearing shall be published once at least 10 days before the date of hearing.

At the hearing, any person residing in or owning property in the area proposed for annexation and any resident of the annexing city may appear and be heard on the questions of the sufficiency of the petition and the desirability of the annexation. If the council then finds and determines that (i) the area described in the petition meets all of the standards set out in G.S. 160A-58.1(b), (ii) the petition bears the signatures of all of the owners of real property within the area proposed for annexation (except those not required to sign by G.S. 160A-58.1(a)), (iii) the petition is otherwise valid, and (iv) the public health, safety and welfare of the inhabitants of the city and of the area proposed for annexation will be best served by the annexation, the council may adopt an ordinance annexing the area described in the petition. The ordinance may be made effective immediately or on any specified date within six months from the date of passage. (1973, c. 1173, s. 2.)

§ 160A-58.3. Annexed area subject to city taxes and debts. — From and after the effective date of the annexation ordinance, the annexed area and its citizens and property are subject to all debts, laws, ordinances and regulations of the annexing city, and are entitled to the same privileges and benefits as other parts of the city. The newly annexed area is subject to city taxes levied for the fiscal year following the date of annexation. If the effective date of annexation falls between January 1 and June 30, the city shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of January 1. If the effective date of annexation falls between June 1 and June 30, and the privilege licenses of the annexing city are due on June 1, then businesses in the annexed area are liable for privilege license taxes at the full-year rate. (1973, c. 1173, s. 2.)

§ 160A-58.4. Extraterritorial powers. — Satellite corporate limits shall not be considered a part of the city's corporate limits for the purposes of extraterritorial land-use regulation pursuant to G.S. 160A-360, or abatement of public health nuisances pursuant to G.S. 160A-193. However, a city's power to regulate land use pursuant to Chapter 160A, Article 19, or to abate public health nuisances pursuant to G.S. 160A-193, shall be the same within satellite corporate limits as within its primary corporate limits. (1973, c. 1173, s. 2.)

§ 160A-58.5. Special rates for water, sewer and other enterprises. — For the purposes of G.S. 160A-314, provision of public enterprise services within satellite corporate limits shall be considered provision of service for special classes of service distinct from the classes of service provided within the primary corporate limits of the city, and the city may fix and enforce schedules of rents, rates, fees, charges and penalties in excess of those fixed and enforced within the primary corporate limits. A city providing enterprise services within satellite corporate limits shall annually review the cost thereof, and shall take such steps as may be necessary to insure that the current operating costs of such services, excluding debt service on bonds issued to finance services within satellite corporate limits, does not exceed revenues realized therefrom. (1973, c. 1173, s. 2.)

§ 160A-58.6. Transition from satellite to primary corporate limits. — An area annexed pursuant to this Part ceases to constitute satellite corporate limits and becomes a part of the primary corporate limits of a city when, through annexation of intervening territory, the two boundaries touch. (1973, c. 1173, s. 2.)

SUBDIVISION DEFINED

§ 160A-376. **Definition.** — For the purpose of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets; and
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations. (1955, c. 1334, s. 1; 1971, c. 698, s. 1; 1973, c. 426, s. 61.)

[For special acts governing subdivision regulation by particular municipalities, see Sess. Laws, 1947, c. 677, as amended by Sess. Laws, 1953, c. 777 (Winston-Salem); Sess. Laws, 1949, c. 369 (Durham and Reidsville), c. 882 (Guilford County); Sess. Laws, 1953, c. 504 (Lexington), c. 525 (Newton), c. 783 (Conover), c. 939 (Thomasville); Sess. Laws, 1955, c. 124, as amended by Sess. Laws, 1959, c. 113 (Charlotte), c. 880 (Jacksonville), c. 921 (Raleigh), c. 924 (Conover), c. 939 (Chapel Hill); Sess. Laws, 1957, c. 127 (Elkin), c. 726 (Carrboro and Chapel Hill), c. 812 (Salisbury); Sess. Laws, 1961, c. 983 (Laurinburg), c. 1211 (Fayetteville); Sess. Laws, 1963, c. 120 (Mount Airy), c. 896 (municipalities in Harnett County); c. 1153 (Durham), c. 477 (Hickory); Sess. Laws, 1965, c. 959 (Wallace); Sess. Laws, 1967, c. 357 (Selma and Smithfield); Sess. Laws, 1969, c. 364 (Lake Waccamaw).]

